

ARKANSAS STATE UNIVERSITY
GOVERNING PRINCIPLES FOR TRANSPORTATION
OF HAZARDOUS MATERIALS
(Including Export Controls)

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1.0 INTRODUCTION

Arkansas State University is committed to protecting its employees, students, affiliated workers, and other individuals who may come into contact with hazardous materials as they are shipped from or to the campus.

2.0 PURPOSE

This policy's purpose is to: 1) protect the health and well-being of on- and off-campus personnel in the transportation of hazardous materials, and 2) to comply with all applicable federal, state, or local laws or regulations.

3.0 DEFINITIONS

Exports. Exports include: 1) physical transfers of tangible items outside the U.S; 2) electronic or digital transfers of software or technical data outside of the U.S.; 3) release or disclosure of software or technical data to any foreign person by e-mail, internet, phone, fax, in-person, or through visual inspection; and 4) application of technical data abroad.

Export Controls. The federal government regulates certain exports for national security, foreign policy or competitive trade reasons. Though some research activities are exempted, it is nevertheless the University's responsibility to ensure that it obtains licenses to export certain hazardous materials when appropriate.

Hazardous Materials. Hazardous materials are substances or materials capable of posing an unreasonable risk to health, safety and property when transported in commerce. This includes laboratory chemicals, radioactive materials, compressed gases, biological agents, diagnostic specimens, refrigerants and equipment, or instruments that contain hazardous materials.

Unaffiliated Workers. Unaffiliated workers are those who are not employed by or a student of the University who are otherwise affiliated via ongoing research or teaching activities at SLU.

4.0 APPLICABILITY

All employees, students, or unaffiliated workers who use or handle hazardous materials in the course of their employment, studies, or relationship with the University.

6.0 REGULATIONS

Since 1990, the U.S. Department of Transportation (USDOT) has regulated the commercial transport of hazardous materials in all modes of transportation. The regulations were formulated to ensure that all who come in contact with a shipment of hazardous materials are properly informed of the hazards of the products and the measures necessary for safe ground, sea, or air transport. Control is maintained through rigorous packaging, appropriate labeling, documentation of contents, emergency contact information, and worker training in the transportation chain.

Regulations that govern transportation of hazardous materials include, but are not limited to:

Executive Order 12923 Continuation of Export Control Regulations, 30 June 1994.

Title 22 USC 2778 et seq. – Arms Export Control Act.

Title 50 USC 2401 et seq. – Export Administration Act of 1979 (as amended).

Title 50 USC Appendix, Section 10 – Trading With the Enemy Act of 1917.

Title 15 CFR Export Administration Regulations, part 770.

Title 15 CFR part 779 Technical Data.

Export Administration Regulations, EAR, 15 CFR 730, U.S., Department of Commerce

International Traffic in Arms Regulations, ITAR, 22 CFR 120-130, U.S. Department of State

Guidelines for the Safe Transport of Infectious Substances and Diagnostic Specimens, WHO (1997). See <http://www.cdc.gov/od/ohs/biosfty/biosfty.htm>.

Interstate Transportation of Etiologic Agents, Public Health Service 42 CFR Part 72.

Hazardous Materials Regulations, Department of Transportation 49 CFR Parts 171-178.

Mailability of Etiologic Agents, United States Postal Service 39 CFR Part 111.

Environmental Health & Safety Department and Health Administration 29 CFR Part 1910.1030.

Technical Instructions on Safe Transport by Air, International Civil Aviation Organization (ICAO).

Dangerous Goods Relations, International Air Transport Association (IATA).

Foreign Quarantine, Etiologic Agents, Hosts and Vectors, Public Health Service 42 CFR Part 71.54.

Import or Domestic Transfer of Etiologic Agents, USDA and APHIS 9 CFR Parts 92, 94, 95, 96, 122 and 130

Importation of Plant Pests, Federal Plant Pest Regulation 7 CFR Part 330.

Transfer of Select Agents of Human Disease, Center of Disease Control 42 CFR Part 72.6.

Export of Etiologic Agents, Department of Commerce 15 CFR Part 730 - 799.

USDA Import-Export Regulations (7 CFR): Plant and plant pest import/export permits issued by the APHIS Plant Protection and Quarantine branch. See http://www.aphis.usda.gov/plant_health/.

Department of Transportation, 49 CFR Parts 170 through 189.

6.0 GOVERNING PRINCIPLES

Materials that are shipped to a lab for testing or analysis, sent to a colleague for collaborative research, shipped to another research facility, returned to the manufacturer, or sent to a field research site must follow all applicable shipping requirements. To comply, regulated materials must be classified by hazard type, properly packaged, labeled, documented, and handled by trained employees.

The Office of Environmental Safety and Services must be notified of any plans to ship hazardous materials, preferably at least three days in advance of the proposed shipment. **Materials to be transported between campus buildings, within the United States, or internationally must be packaged in accordance with state and federal law.** Laboratory employees may transport

hazardous materials within a discrete area or building, but are required to use protective secondary containers, regardless of distance.

Exportation and importation of equipment, materials, and services outside of the United States is subject to stringent regulation, as implemented by the Department of Commerce through its Export Administration Regulations (EAR) and the Department of State through its International Traffic in Arms Regulations (ITAR). The Treasury Department Office of Foreign Assets Control (**OFAC**) administers and enforces programs based on U.S. foreign policy and national security goals that (1) Regulate the transfer of items or services to embargoed nations; (2) Impose trade sanctions and trade and travel embargoes aimed at controlling terrorism, drug trafficking, and other illegal activities; and (3) Restrict payments or providing anything of value to nationals of sanctioned countries and to specific foreign entities and individuals. The following countries/areas are currently on OFAC's sanctions list, Balkans, Belarus, Burma, Cote d'Ivoire (Ivory Coast), Cuba, Democratic Republic of Congo, Iran, Iraq, Liberia, North Korea, Sudan, Syria, and Zimbabwe.

At issue are exports or imports that have actual or potential military applications or economic protection implications, when the government has concerns about the destination country, organization, or individual; or when the government has concerns about the declared or suspected use of the export.

When an item is controlled, a license may be required before the technology can be exported. This requirement relates not only to tangible items (prototypes or software) but also to the research results themselves. Furthermore, the term "*export*" can mean technology leaving the shores of the United States (including transfer to a U.S. citizen abroad whether or not it is pursuant to a research agreement with the U.S. government) and, transmitting the technology to an individual other than a U.S. citizen or permanent resident within the United States.

Other requirements include:

- Controlling all sensitive information and marking it accordingly; Disseminating export-controlled information to U.S. citizens or immigrant aliens.¹
- Denying opportunities for access to foreign nationals or any unauthorized person;
- Maintaining records for all exports on the Department of Commerce Control List for a period of at least two years;

¹ It is important to note that discussion with a foreign national in the United States, or a person "acting on behalf of a foreign person," constitutes an "export" if it reveals technical information regarding export-controlled technology.

- Maintaining records for all items listed on the ITAR for five years.
- Developing Technology Control Plans (TCPs) for research that deals with technical items, data, and/or software controlled by U.S. Export Administration Regulations (EAR) or the International Traffic in Arms Regulations (ITAR). This requirement applies to all research activities whether or not they are externally sponsored. This plan must be submitted and approved prior to undertaking controlled activities.

The legislation excludes research activities from export control requirements when basic and/or applied research in science and engineering is: a) conducted at accredited institutions of higher education/learning, b) ordinarily published and shared with a broad scientific community, and c) are not restricted for proprietary nor specific national security reasons. Public domain and publicly available information that is not subject to export controls must be published through open-access libraries, bookstores, and websites; conferences or other public meetings; or when patents have been published.

Consequences for violating these regulations can be serious for both the University and the researcher, ranging from loss of research contracts and monetary fines to imprisonment for the individual found to have violated regulations.

The penalty for unlawful export of items or information controlled under the ITAR is up to 2 years imprisonment, or a fine of \$100,000, or both. The penalty for unlawful export of items or information controlled under the EAR is a fine of up to \$1,000,000 or five times the value of the exports, whichever is greater; or for an individual, imprisonment of up to 10 years or a fine of up to \$250,000 or both.

7.0 RESPONSIBILITIES

Office of Environmental Safety and Services. The Office of Environmental Health and Safety and Services has responsibility for:

- ensuring that all federal and state regulations regarding hazardous materials are followed;
- coordinating the entry and exit of all chemicals and biohazardous substances, and
- maintaining records of all transactions.

Radiation Safety Officer. The Radiation Safety Officer has responsibility for:

- ensuring that all federal and state regulations are followed with regard to radioactive materials;
- coordinating the entry and exit of all radioactive materials; and
- maintaining records of all transactions.

Principal Investigators and Supervisors. Principal Investigators and supervisors have responsibility for:

- using hazardous materials appropriately;
- providing the Office of Environmental Safety, and Services with information as needed for the safe transport of any hazardous materials; and
- working through the Office of Environmental Safety and Services to receive or transport hazardous materials.

8.0 PROCEDURES

Requests for transfer of hazardous materials must contain the following information:

- name of the receiving institution;
- written authorization from the receiving institution for the type, form, and quantity of material;
- the issuing agency name;
- the current license number and expiration date;
- the name of the Safety Officer at the receiving institution;
- the material type; and
- the amount of activity where applicable.